

**§ 1.422 When the inventor is dead.**

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may file an international application which designates the United States of America.

**§ 1.423 When the inventor is insane or legally incapacitated.**

In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may file an international application which designates the United States of America.

**§ 1.424 Joint inventors.**

Joint inventors must jointly file an international application which designates the United States of America; the signature of either of them alone, or less than the entire number will be insufficient for an invention invented by them jointly, except as provided in § 1.425.

**§ 1.425 Filing by other than inventor.**

(a) If a joint inventor refuses to join in an international application which designates the United States of America or cannot be found or reached after diligent effort, the international application which designates the United States of America may be filed by the other inventor on behalf of himself or herself and the omitted inventor. Such an international application which designates the United States of America must be accompanied by proof of the pertinent facts and must state the last known address of the omitted inventor. The Patent and Trademark Office shall forward notice of the filing of the international application to the omitted inventor at said address.

(b) Whenever an inventor refuses to execute an international application which designates the United States of America, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may file the international application on behalf of and as agent for the inventor. Such an international application which designates the United

States of America, must be accompanied by proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, and must state the last known address of the inventor. The assignment, written agreement to assign or other evidence of proprietary interest, or a verified copy thereof, must be filed in the Patent and Trademark Office. The Office shall forward notice of the filing of the application to the inventor at the address stated in the application.

THE INTERNATIONAL APPLICATION

**§ 1.431 International application requirements.**

(a) An international application shall contain, as specified in the Treaty and the Regulations, a Request, a description, one or more claims, an abstract, and one or more drawings (where required). (PCT Art. 3(2) and section 207 of the Administrative Instructions.)

(b) An international filing date will be accorded by the United States Receiving Office, at the time to receipt of the international application, provided that:

(1) At least one applicant (§ 1.421) is a United States resident or national and the papers filed at the time of receipt of the international application so indicate (35 U.S.C. 361(a), PCT Art. 11(1)(i)).

(2) The international application is in the English language (35 U.S.C. 361(c), PCT Art. 11(1)(ii)).

(3) The international application contains at least the following elements (PCT Art. 11(1)(iii)):

(i) An indication that it is intended as an international application (PCT Rule 4.2);

(ii) The designation of at least one Contracting State of the International Patent Cooperation Union (§ 1.432);

(iii) The name of the applicant, as prescribed (note §§ 1.421–1.424);

(iv) A part which on the face of it appears to be a description; and

(v) A part which on the face of it appears to be a claim.

(c) Payment of the basic portion of the international fee (PCT Rule 15.2) and the transmittal and search fees (§ 1.445) may be made in full at the time the international application papers

required by paragraph (b) of this section are deposited or within one month thereafter. If the basic transmittal and search fees are not paid within one month from the date of receipt of the international application, applicant will be notified and given one month within which to pay the deficient fees plus a late payment fee equal to the greater of:

(1) 50% of the amount of the deficient fees up to a maximum amount equal to the basic fee, or

(2) An amount equal to the transmittal fee (PCT Rule 16bis).

The one-month time limit set in the notice to pay deficient fees may not be extended.

(d) If the payment needed to cover the transmittal fee, the basic fee, the search fee, one designation fee and the late payment fee pursuant to paragraph (c) of this section is not timely made, the Receiving Office will declare the international application withdrawn under PCT Article 14(3)(a).

[43 FR 20466, May 11, 1978, as amended at 50 FR 9383, Mar. 7, 1985; 52 FR 20047, May 28, 1987; 58 FR 4344, Jan. 14, 1993]

**§ 1.432 Designation of States and payment of designation fees.**

(a) The designation of States including an indication that applicant wishes to obtain a regional patent, where applicable, shall appear in the Request upon filing and must be indicated as set forth in PCT Rule 4.9 and section 115 of the Administrative Instructions. Applicant must specify at least one national or regional designation on filing of the international application for a filing date to be granted.

(b) If the fees necessary to cover all the national and regional designations specified in the Request are not paid by the applicant within one year from the priority date or within one month from the date of receipt of the international application if that month expires after the expiration of one year from the priority date, applicant will be notified and given one month within which to pay the deficient designation fees plus a late payment fee equal to the greater of 50% of the amount of the deficient fees up to a maximum amount equal to the basic fee, or an amount equal to the transmittal fee (PCT Rule 16bis).

The one-month time limit set in the notification of deficient designation fees may not be extended. Failure to timely pay at least one designation fee will result in the withdrawal of the international application. The one designation fee may be paid:

(1) Within one year from the priority date,

(2) Within one month from the date of receipt of the international application if that month expires after the expiration of one year from the priority date, or

(3) With the late payment fee defined in this paragraph within the time set in the notification of the deficient designation fees. If after a notification of deficient designation fees the applicant makes timely payment, but the amount paid is not sufficient to cover the late payment fee and all designation fees, the Receiving Office will, after allocating payment for the basic, search, transmittal and late payment fees, allocate the amount paid in accordance with PCT Rule 16bis.1(c) and withdraw the unpaid designations. The notification of deficient designation fees pursuant to this paragraph may be made simultaneously with any notification pursuant to § 1.431(c).

(c) On filing the international application, in addition to specifying at least one national or regional designation under PCT Rule 4.9(a), applicant may also indicate under PCT Rule 4.9(b) that all other designations permitted under the Treaty are made. The latter indication under PCT Rule 4.9(b) must be made in a statement on the Request that any designation made under this paragraph is subject to confirmation (PCT Rule 4.9(c)) not later than the expiration of 15 months from the priority date by:

(1) Filing a written notice with the United States Receiving Office specifying the national and/or regional designations being confirmed;

(2) Paying the designation fee for each designation being confirmed; and

(3) Paying the confirmation fee specified in § 1.445(a)(4).

Unconfirmed designations will be considered withdrawn. If the amount submitted is not sufficient to cover the designation fee and the confirmation